

Honorable David G. Estudillo

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

CINDY VAN LOO, an Oregon resident, as
Personal Representative of the ESTATE OF
MICHAEL F. REINOEHL;

Plaintiff,

vs.

THE UNITED STATES OF AMERICA; PIERCE
COUNTY, a political subdivision of the State of
Washington; the MUNICIPALITY OF
LAKEWOOD, a municipal corporation; STATE
OF WASHINGTON; JAMES OLEOLE, an
individual; CRAIG GOCHA, an individual;
MICHAEL MERRILL, an individual; and JACOB
WHITEHURST, an individual.

Defendants.

NO. 3:23-cv-05618-DGE

**ANSWER OF DEFENDANTS CITY
OF LAKEWOOD AND MICHAEL
MERRILL TO PLAINTIFF'S
SECOND AMENDED COMPLAINT
AND AFFIRMATIVE DEFENSES**

TO: PLAINTIFF;

AND TO: ATTORNEYS FOR PLAINTIFF.

COME NOW Defendants City of Lakewood and Michael Merrill, ("Defendants") by and through the undersigned counsel, and for Answer to the Plaintiff's Second Amended Complaint, ("SAC") admits, denies and alleges as follows:

In Answer to the "Introduction" section of Plaintiff's SAC, Defendants deny the same.

2.1 This paragraph does not make factual allegations that can be admitted or denied and it is denied on that basis.

**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S SECOND AMENDED
COMPLAINT AND AFFIRMATIVE DEFENSES – 1
Cause No.: 3:23-cv-05618-DGE**

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1 2.2 This paragraph does not make factual allegations that can be admitted or denied
2 and it is denied on that basis.

3 2.3 This paragraph does not make factual allegations that can be admitted or denied
4 and it is denied on that basis.

5 3.1 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 3.2 Defendants neither admit nor deny the first sentence of this paragraph because it
8 is conclusion of law, not an allegation of fact. Defendants are without sufficient information to
9 admit or deny the remainder of this paragraph and therefore deny the same.

10 3.3 This paragraph makes allegations against other defendants and is neither admitted
11 nor denied on that basis.

12 3.4 This paragraph makes allegations against other defendants and is neither admitted
13 nor denied on that basis.

14 3.5 This paragraph is admitted.

15 3.6 This paragraph makes allegations against other defendants and is neither admitted
16 nor denied on that basis.

17 3.7 This paragraph makes allegations against other defendants and is neither admitted
18 nor denied on that basis.

19 3.8 The first sentence of this paragraph is admitted. The Defendants object to the
20 second sentence as a conclusion of law and it is denied on that basis.

21 3.9 This paragraph makes allegations against other defendants and is neither admitted
22 nor denied on that basis.

23 3.10 This paragraph makes allegations against other defendants and is neither admitted
24 nor denied on that basis.

25 4.1 Defendants are without sufficient information to admit or deny and therefore
26 denies the same.

1 4.2 This paragraph makes allegations against other defendants and is neither admitted
2 nor denied on that basis.

3 4.3 This paragraph is admitted.

4 4.4 This paragraph makes allegations against other defendants and is neither admitted
5 nor denied on that basis.

6 4.5 This paragraph makes allegations against other defendants and is neither admitted
7 nor denied on that basis.

8 4.6 This paragraph makes allegations against other defendants and is neither admitted
9 nor denied on that basis.

10 5.1 Defendants are without sufficient information to admit or deny and therefore
11 denies the same.

12 5.2 Defendants are without sufficient information to admit or deny and therefore
13 denies the same.

14 5.3 Defendants are without sufficient information to admit or deny and therefore
15 denies the same.

16 5.4 Defendants admit Reinoehl was shot during a police operation on September 3,
17 2020. The remainder of this paragraph is denied.

18 5.5 Defendants admit this paragraph.

19 5.6 Defendants admit this paragraph.

20 5.7 Defendants are without sufficient information to admit or deny and therefore
21 denies the same.

22 5.8 Defendants admit Michael Merrill was employed by Lakewood Police Department
23 at the time of this incident. The remaining allegations concern other defendants and require no
24 response and are neither admitted nor denied.
25
26

1 5.9 Defendants admit Michael Merrill was employed by Lakewood Police Department
2 at the time of this incident. The remaining allegations concern other defendants and require no
3 response and are neither admitted nor denied.

4 5.10 Defendants are without sufficient information to admit or deny and therefore
5 denies the same.

6 5.11 This paragraph makes allegations against non-parties and is neither admitted nor
7 denied on that basis.

8 5.12 Defendants are without sufficient information to admit or deny and therefore
9 denies the same.

10 5.13 Defendants are without sufficient information to admit or deny and therefore
11 denies the same.

12 5.14 Defendants are without sufficient information to admit or deny and therefore
13 denies the same.

14 5.15 Defendants are without sufficient information to admit or deny and therefore
15 denies the same.

16 5.16 Defendants are without sufficient information to admit or deny and therefore
17 denies the same.

18 5.17 Defendants are without sufficient information to admit or deny and therefore
19 denies the same.

20 5.18 Defendants are without sufficient information to admit or deny and therefore
21 denies the same.

22 5.19 Defendants are without sufficient information to admit or deny and therefore
23 denies the same.

24 5.20 Defendants are without sufficient information to admit or deny and therefore
25 denies the same.
26

1 5.21 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.22 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.23 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.24 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.25 Defendants are without sufficient information to admit or deny and therefore
10 denies the same. Defendants further object to this paragraph as a conclusion of law not an
11 allegation of fact and it is denied on that basis.

12 5.26 Defendants are without sufficient information to admit or deny and therefore
13 denies the same. Defendants further object to this paragraph as a conclusion of law not an
14 allegation of fact and it is denied on that basis.

15 5.27 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.28 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.29 This paragraph makes allegations against other defendants and is neither admitted
20 nor denied on that basis.

21 5.30 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23 5.31 Defendants are without sufficient information to admit or deny and therefore
24 denies the same.

25 5.32 Defendants are without sufficient information to admit or deny and therefore
26 denies the same.

1 5.33 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.34 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.35 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.36 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.37 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.38 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.39 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.40 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.41 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.42 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.43 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23 5.44 Defendants are without sufficient information to admit or deny and therefore
24 denies the same.

25 5.45 Defendants are without sufficient information to admit or deny and therefore
26 denies the same.

1 5.46 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.47 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.48 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.49 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.50 Defendants admit this paragraph as to Michael Merrill. The remaining allegations
10 concern other defendants and require no response and are neither admitted nor denied.

11 5.51 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.52 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.53 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.54 This paragraph makes allegations against other defendants and is neither admitted
18 nor denied on that basis.

19 5.55 This paragraph makes allegations against other defendants and is neither admitted
20 nor denied on that basis.

21 5.56 The defendants object to this paragraph as the document speaks for itself and this
22 paragraph is denied on that basis.

23 5.57 Defendants object that this paragraph is a legal conclusion and it is denied on that
24 basis.

25 5.58 Defendants are without sufficient information to admit or deny and therefore
26 denies the same.

1 5.59 The defendants object to this paragraph as the document speaks for itself and this
2 paragraph is denied on that basis.

3 5.60 Defendants object that this paragraph is a legal conclusion and it is denied on that
4 basis.

5 5.61 Defendants object that this paragraph is a legal conclusion and it is denied on that
6 basis.

7 5.62 Defendants deny this paragraph.

8 5.63 Defendants are without sufficient information to admit or deny and therefore
9 denies the same.

10 5.64 Defendants are without sufficient information to admit or deny and therefore
11 denies the same.

12 5.65 Defendants are without sufficient information to admit or deny and therefore
13 denies the same.

14 5.66 Defendants are without sufficient information to admit or deny and therefore
15 denies the same.

16 5.67 Defendants object that this paragraph is a legal conclusion and it is denied on that
17 basis.

18 5.68 Defendants are without sufficient information to admit or deny and therefore
19 denies the same.

20 5.69 Defendants are without sufficient information to admit or deny and therefore
21 denies the same.

22 5.70 Defendants are without sufficient information to admit or deny and therefore
23 denies the same.

24 5.71 Defendants are without sufficient information to admit or deny and therefore
25 denies the same.

1 5.72 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.73 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.74 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.75 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.76 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.77 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.78 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.79 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.80 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.81 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.82 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23 5.83 Defendants are without sufficient information to admit or deny and therefore
24 denies the same.

25 5.84 Defendants are without sufficient information to admit or deny and therefore
26 denies the same.

1 5.85 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.86 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.87 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.88 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.89 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.90 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.91 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.92 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.93 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.94 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.95 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23 5.96 Defendants are without sufficient information to admit or deny and therefore
24 denies the same.

25 5.97 Defendants are without sufficient information to admit or deny and therefore
26 denies the same.

1 5.98 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.99 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.100 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.101 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.102 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.103 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.104 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.105 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.106 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.107 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.108 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23 5.109 a. - e. Defendants are without sufficient information to admit or deny and
24 therefore denies the same.

25 5.110 Defendants are without sufficient information to admit or deny and therefore
26 denies the same.

1 5.111 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.112 Defendants deny this paragraph.

4 5.113 Defendants are without sufficient information to admit or deny and therefore
5 denies the same.

6 5.114 Defendants are without sufficient information to admit or deny and therefore
7 denies the same.

8 5.115 Defendants are without sufficient information to admit or deny and therefore
9 denies the same.

10 5.116 Defendants deny the same.

11 5.117 Defendants deny the same.

12 5.118 Defendants are without sufficient information to admit or deny and therefore
13 denies the same.

14 5.119 Defendants are without sufficient information to admit or deny and therefore
15 denies the same.

16 5.120 Defendants admit Reinoehl died, but deny the remaining allegations in this
17 paragraph.

18 5.121 Defendants are without sufficient information to admit or deny and therefore
19 denies the same.

20 5.122 Defendants are without sufficient information to admit or deny and therefore
21 denies the same.

22 5.123 Defendants are without sufficient information to admit or deny and therefore
23 denies the same.

24 5.124 Defendants are without sufficient information to admit or deny and therefore
25 denies the same.

26 5.125 Defendants admit Reinoehl died from his injuries.

1 5.126 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.127 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.128 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 6.1 Defendants incorporate their responses to paragraphs 5.1 - 5.128 above.

8 6.2 Defendants deny this paragraph.

9 6.3 Defendants object that this paragraph is argumentative, and a legal conclusion and
10 it is denied on that basis.

11 6.4 Defendants object that this paragraph is argumentative, and a legal conclusion and
12 it is denied on that basis.

13 6.5 Defendants deny this paragraph.

14 6.6 Defendants deny this paragraph.

15 6.7 This paragraph makes allegations against other defendants and is neither admitted
16 nor denied on that basis. To the extent that this paragraph includes allegations against these
17 defendants, it is denied.

18 6.8 This paragraph makes allegations against other defendants and is neither admitted
19 nor denied on that basis. To the extent that this paragraph includes allegations against these
20 defendants, it is denied.

21 6.9 This paragraph makes allegations against other defendants and is neither admitted
22 nor denied on that basis. To the extent that this paragraph includes allegations against these
23 defendants, it is denied.

24 6.10 This paragraph is denied as to these defendants.

25 6.11 Defendants object that this paragraph is argumentative, and a legal conclusion and
26 it is denied on that basis.

1 6.12 Defendants object that this paragraph is argumentative, and a legal conclusion and
2 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

3 6.13 Defendants object that this paragraph is argumentative, and a legal conclusion and
4 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

5 6.14 Defendants object that this paragraph is argumentative, and a legal conclusion and
6 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

7 6.15 Defendants deny this paragraph.

8 6.16 Defendants object that this paragraph is argumentative, and a legal conclusion and
9 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

10 6.17 Defendants object that this paragraph is argumentative, and a legal conclusion and
11 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

12 6.18 This paragraph makes allegations against other defendants and is neither admitted
13 nor denied on that basis. To the extent that this paragraph includes allegations against these
14 defendants, it is denied.

15 6.19 Defendants object that this paragraph is argumentative, and a legal conclusion and
16 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

17 6.20 Defendants deny this paragraph.

18 6.21 Defendants object that this paragraph is argumentative, and a legal conclusion and
19 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

20 6.22 Defendants object that this paragraph is argumentative, and a legal conclusion and
21 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

22 Defendants deny the plaintiff is entitled to the relief sought in paragraphs 7.1 – 7.8.

23 By way of FURTHER ANSWER and AFFIRMATIVE DEFENSES, Defendants allege:

24 1. That the plaintiffs have failed to state a claim for which relief can be granted against
25 these defendants.
26

1 2. That sovereign immunity and/or qualified immunity under state and federal law
2 precludes plaintiffs' claims.

3 3. That the public duty doctrine and qualified and/or good faith immunity preclude
4 plaintiffs' state law claims.

5 4. That the plaintiffs' comparative fault and intentional criminal conduct proximately
6 caused their damages, if any.

7 5. That the plaintiffs failed to mitigate their damages, if any.

8 6. That the plaintiffs' damages, if any, were caused by fault of parties not in the
9 control of Defendants or non-parties not in the control of Defendants.

10 7. That the plaintiff was engaged in the commission of a felony at the time of the
11 occurrence causing the injury and the felony was a proximate cause of the injury. Therefore,
12 Plaintiffs' claims are barred by RCW 4.24.420.

13 8. That the plaintiffs lack standing to pursue one or more of their claims.

14 9. That Officer Merrill was acting pursuant to federal authority at all times and under
15 color of federal not state law

16 Defendants expressly reserve the right to amend this Answer, including the addition of
17 affirmative defenses warranted by investigation and discovery, and to make such amendments
18 either before or during trial, including asserting other defense theories or conforming the
19 pleadings to the proof offered at the time of trial.

20 WHEREFORE, Defendants pray as follows:

21 1. That Plaintiffs' SAC be dismissed with prejudice and that Plaintiffs take nothing by
22 their Complaint and that Defendants be allowed their costs and reasonable attorneys' fees
23 herein.

1 Dated this 9th day of July, 2024.

2 LAW, LYMAN, DANIEL, KAMERRER
3 & BOGDANOVICH, P.S.

4 /s/ John E. Justice

5 John E. Justice, WSBA No. 23042
6 Attorney for Defendants City of Lakewood
7 and Michael Merrill
8 P.O. Box 11880, Olympia, WA 98508
9 Phone: (360) 754-3480 Fax: 360-754-3480
10 Email: jjustice@ldkb.com

11 **CERTIFICATE OF FILING AND SERVICE**

12 I hereby certify under penalty of perjury under the laws of the State of Washington that
13 on this date, I caused to be electronically filed the foregoing document with the Clerk of the
14 Court using the CM/ECF system, who will send notification of such filing to the following
15 party:

16 **Plaintiffs' Attorneys:**

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18 Rebecca Jane Roe
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DATED this 9th day of July, 2024 at Tumwater, WA.

/s/ Tam Truong

Tam Truong, Legal Assistant